

Dear Senators BURTENSHAW, Adams, Semmelroth, and
Representatives MENDIVE, Shepherd, Burns:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Fish and Game:

IDAPA 13.01.11 - Rules Governing Fish (ZBR Chapter Rewrite) - Proposed Rule (Docket No.
13-0111-2301);

IDAPA 13.01.12 - Rules Governing Commercial Fishing (ZBR Chapter Repeal) - Proposed Rule
(Docket No. 13-0112-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/03/2023. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/01/2023.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee
FROM: Deputy Division Manager - Katharine Gerrity
DATE: October 16, 2023
SUBJECT: Department of Fish and Game

IDAPA 13.01.11 - Rules Governing Fish (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 13-0111-2301)

IDAPA 13.01.12 - Rules Governing Commercial Fishing (ZBR Chapter Repeal) - Proposed Rule (Docket No. 13-0112-2301)

1. IDAPA 13.01.11 - Rules Governing Fish

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.11 - Rules Governing Fish. According to the department, this is a chapter rewrite based on the Governor's zero based regulation Executive Order. The department states that the rule relates to criteria around commercial and noncommercial take, transport, and release of fish and crustacea, and fishing contests. The department notes that it has revised current rule language to improve clarity and reduce duplication. The department indicates that it has evaluated and determined that the current chapter on commercial fishing at IDAPA 13.01.12 can be incorporated into this chapter IDAPA 13.01.11.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted and there is no fiscal impact to the general fund.

Statutory Authority

The rulemaking appears authorized pursuant to Sections 36-103, 36-104, 36-406A, 36-410, 36-701, 36-706, 36-804, 36-901, 36-902, and 36-1001, Idaho Code.

2. IDAPA 13.01.12 - Rules Governing Commercial Fishing

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|--|---|--|---|--|
| Paul Headlee, Deputy Director Legislative Services Office | Matt Drake, Manager Research & Legislation | Keith Bybee, Manager Budget & Policy Analysis | April Renfro, Manager Legislative Audits | Norma Clark, Manager Information Technology |
|--|---|--|---|--|

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

Summary and Stated Reasons for the Rule

The Department of Fish and Game submits notice of proposed rule at IDAPA 13.01.12 - Rules Governing Commercial Fishing. According to the department, this chapter is being repealed and provided for now in IDAPA 13.01.01 - Rule Governing Fishing.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted and there is no fiscal impact to the general fund.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 36-104 and 36-804, Idaho Code.

cc: Department of Fish and Game
Amber Worthington

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-103, 36-104, 36-406A, 36-407, 36-410, 36-701, 36-706, 36-804, 36-901, 36-902, 36-1001, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

In the event a hearing is scheduled, the hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every 5 years. This rulemaking relates to criteria around commercial and non-commercial take, transport, and release of fish and crustacea, and fishing contests. Consistent with the Governor's [Zero-Based Regulation Executive Order](#), the agency has revised current rule language to improve clarity and reduce duplication.

IDFG has evaluated the potential to consolidate IDAPA 13.01.12, "Rules Governing Commercial Fishing," into this chapter, IDAPA 13.01.11, "Rules Governing Fish," such that IDAPA 13.01.12 may be repealed, as proposed concurrently in Docket No. [13-0112-2301](#).

This proposed rulemaking includes changes to integrate current IDFG restrictions found in both chapters, under the similar topic, into a single rule chapter under IDFG's authority to regulate fishing and commercial fishing. The proposed rule consolidates definitions into one location and adds sections specific to commercial fishing to the "Rules Governing Fish" chapter.

Of note, this rulemaking incorporates suggested changes from the public around fishing contests which makes limitations on certain water bodies less restrictive and provides exemptions for fish limits and transport of fish during fishing contests.

FEE SUMMARY: There is no fee associated with this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 7, 2023 Idaho Administrative Bulletin, [Vol. 22-4, page 19](#) under Docket No. 13-0111-2301. The Department received feedback around fishing contests and reached a consensus around modification of the rules.

INCORPORATION BY REFERENCE: This rulemaking contains no incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Joe Kozfkay, State Fisheries Manager, 208-334-3700.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 24th day of August, 2022.

Amber Worthington Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0111-2301
(ZBR Chapter Rewrite)

13.01.11 – RULES GOVERNING FISH

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-406A, 36-407, 36-410, 36-701, 36-706, 36-901, 36-902, 36-1001, Idaho Code, ~~authorize the Commission to adopt rules concerning fishing, methods of take, seasons, limits, and fishing contests.~~
(3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~The title of this chapter for citation is IDAPA 13.01.11, “Rules Governing Fish.” These rules establish the methods of govern commercial and non-commercial take, seasons transport, and possession limits for all non-commercial fishing and govern release of fish and crustacea, and fishing contests.~~
(3-31-22)()

002. – 009. (RESERVED)

010. DEFINITIONS – FISH.

01. ~~Chinook Salmon~~ **Adipose Fin.** ~~Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam), and the Boise River drainage~~ **Small fatty fin along the back between the dorsal fin and tail.**
(3-31-22)()

02. ~~Coho Salmon.~~ **Coho Salmon.** ~~Anadromous (ocean run) salmon of the species *Oncorhynchus kisutch* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and Clearwater River drainage (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam).~~
(3-31-22)

03. ~~Game Fish.~~ **Game Fish.** ~~As classified in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.”~~
(3-31-22)

04. ~~Hybrid Fish~~ **Invasive Fish Species.** ~~The offspring of two different species or subspecies of fish. Fish, amphibians, and crustacea species designated as invasive species in IDAPA 02.06.09 “Rules Governing Invasive Species and Noxious Weeds.”~~
(3-31-22)()

05. ~~Jack Salmon.~~ **Jack Salmon.** ~~Anadromous (ocean run) s~~ **Salmon** of a size length set by Commission proclamation.
(3-31-22)()

06. ~~Invasive Fish Species.~~ **Invasive Fish Species.** ~~Bullfrog, fish and crustacea species designated invasive species by state~~

authority (IDAPA 02.06.09 “Rules Governing Invasive Species of the Idaho Department of Agriculture”). (3-31-22)

~~07. **Steelhead Salmon.** Anadromous (ocean run) salmon of the species *Oncorhynchus nerka* in the Snake River drainage below Hells Canyon Dam and the Salmon River drainage. (3-31-22)~~

~~08. **Steelhead.** Any rainbow trout longer than twenty (20) inches in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage (excluding that portion above Dworshak Dam); and any rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) in the Snake River drainage from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River drainage from its mouth upstream to Barber Dam. (3-31-22)~~

~~09. **Trout.** Trout, including brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow (other than steelhead), splake, sunapee, tiger, trout hybrids; and landlocked (not ocean runs) forms of chinook, coho, atlantic and kokanee (blueback) salmon. (3-31-22)~~

~~10. **Unprotected Fish.** Bullfrog and all fish species not classified in a protected category (game fish, protected nongame, threatened or endangered species) in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” (3-31-22)~~

011. DEFINITIONS – CONDUCT OF FISHING.

~~01. **Artificial Fly.** Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-31-22)~~

~~02. **Artificial Lure.** Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. (3-31-22)~~

~~03. **Bag Limit.** The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day, construed in accordance with Sections 36-202 and 36-410, Idaho Code. (3-31-22)~~

~~04. **Bait.** Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (3-31-22)~~

~~05. **Barbless Hook.** A fish hook without barbs or on which all barbs have been bent completely closed. (3-31-22)~~

~~06. **Catch-and-Release.** Effort, by permitted methods, to catch fish, provided that any fish so caught is released immediately back to the water after landing and not reduced to possession. (3-31-22)(____)~~

~~02. **Commercial Fishing.** Fishing or transporting fish or crayfish for the purpose of selling. (____)~~

~~07. **Confluence of a Stream or River.** The point where two (2) rivers or streams come together. (3-31-22)~~

~~08. **Diversion.** A man-made structure designed to change the direction of flowing water in a stream. (3-31-22)~~

~~09. **Diversion Pond.** A man-made pond holding water taken from a stream or reservoir, which pond may be connected to the stream or reservoir by an open ditch or pipe. (3-31-22)~~

~~10. **Drainage.** All water flowing into a common river or stream system, either above or below ground, due to area geography. (3-31-22)~~

~~11. **Electric Motors Only.** For fishing waters listed in proclamation as “electric motors only,” no gas (internal combustion) motors may be used, although they may be attached to the boat. (3-31-22)~~

- ~~12. Fish Trap.~~ Any man-made structure designed to capture fish. (3-31-22)
- ~~13. Fish Weir.~~ Any man-made structure placed in a water body to delay or divert migrating fish. (3-31-22)
- ~~14. Flat Water.~~ Water where there is no observable direction of flow. (3-31-22)
- ~~15. Float Tube.~~ A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. (3-31-22)
- ~~1603. Fly Fishing.~~ Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-31-22)()
- ~~17. General Fishing Season.~~ The season and bag limits as determined by proclamation on a Regional basis. (3-31-22)
- ~~1804. Harvest.~~ Reduce a fish to possession. ()
- ~~19. Hook.~~ A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically identified. (3-31-22)
- ~~2005. Ice Fishing.~~ Fishing through an opening broken or cut through the ice. ()
- ~~2106. Length.~~ The length between the tip of the nose or jaw and the tip of the tail fin. ()
- ~~22. Limit is 0 (Zero).~~ Fishing is allowed, provided the fish is released after landing and not reduced to possession. (3-31-22)
- ~~23. Motor.~~ Includes electric and internal combustion motors. (3-31-22)
- ~~24. Mouth of River or Stream.~~ The place where a river or stream enters a larger body of water. (3-31-22)
- ~~25. No Motors.~~ For fishing waters listed in proclamation as “no motors,” no person may fish from a boat with a motor attached. (3-31-22)
- ~~26. Possession Limit.~~ As defined in Section 36-202, Idaho Code. (3-31-22)
- ~~27. Reservoir.~~ The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-31-22)
- ~~28. Season Limit.~~ The maximum number of fish that may be lawfully harvested in any declared season. (3-31-22)
- ~~29. Section.~~ An area of a river, stream, or reservoir between specific boundary locations. (3-31-22)
- ~~30. Single Point Hook.~~ A bent wire device, for catching fish, with one (1) shank and one (1) point. (3-31-22)
- ~~31. Sliding Sinker.~~ A method of attaching a sinker to a device that slides freely on the main line. (3-31-22)
- ~~3207. Snagging.~~ Taking or attempting to take a fish by use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. (3-31-22)()
- ~~33. Special Rule Waters.~~ Any water with a gear, season, or bag limit rule that is listed in proclamation

~~and different from the general fishing season. (3-31-22)~~

~~34. **Tributary.** A stream flowing into a larger stream or lake. (3-31-22)~~

~~08. **Trolling.** Taking a fish from a moving watercraft by dragging or pushing any fly, lure, bait, or hook using a motor, oars, or other forms of propulsion. ()~~

~~3509. **Unattended Line.** A line not under the immediate surveillance by the angler. (3-31-22)()~~

~~36. **Upstream.** Moving from a lower elevation towards a higher elevation point in the same stream. (3-31-22)~~

~~37. **Watercraft.** Those devices designed as a means of transportation on water. (3-31-22)~~

012. DEFINITIONS – GEAR AND WATERCRAFT.

~~01. **Artificial Fly.** Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. ()~~

~~02. **Artificial Lure.** Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. ()~~

~~03. **Bait.** Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. ()~~

~~04. **Barbless Hook.** Hook without barbs or on which all barbs have been bent completely closed. ()~~

~~05. **Electric Motor.** Watercraft propulsion system powered by electricity. ()~~

~~06. **Float Tube.** Single occupant floating device not to exceed six (6) feet in any dimension that is not propelled by oars, paddles, or motors. ()~~

~~07. **Hook.** Bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. ()~~

~~08. **Motor.** Watercraft propulsion system powered by electricity or combustion of fuel. ()~~

~~09. **Single-Point Hook.** Bent wire device, for catching fish, with one (1) shank and one (1) point. ()~~

~~10. **Sliding Sinker.** Method of attaching a sinker to a device that slides freely on the main line. ()~~

~~11. **Watercraft.** Device designed as a means of transportation on water. ()~~

013. DEFINITIONS – SEASONS AND LIMITS.

~~01. **General Fishing Season.** Season and bag limits as determined by proclamation on a regional basis. ()~~

~~02. **Season Limit.** Maximum number of fish that may be lawfully harvested in any declared season. ()~~

~~03. **Special Rule Waters.** Any water with a gear, motor, or watercraft restriction, season, or bag limit adopted by proclamation and different from the general fishing season. ()~~

014. DEFINITIONS – LOCATIONS.

- 01. Confluence.** Location where two (2) rivers or streams come together. ()
- 02. Diversion.** Man-made structure designed to divert water. ()
- 03. Diversion Pond.** Man-made basin holding diverted water, including basins connected by an open ditch or pipe. ()
- 04. Drainage.** All water flowing into a common river or stream system, either above or below ground, due to area geography. ()
- 05. Fish Trap.** Any man-made structure designed to capture fish. ()
- 06. Fish Weir.** Any man-made structure placed in a water body to delay or divert migrating fish. ()
- 07. Mouth.** Place where a river or stream enters a larger body of water. ()
- 08. Reservoir.** Portion of a dammed waterbody in which there is no observable direction of flow. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. ()
- 09. Section.** An area of a river, stream, or reservoir between specific boundary locations. ()
- 10. Tributary.** A stream flowing into a larger stream or lake. ()
- 11. Upstream.** Moving from a lower elevation towards a higher elevation point in the same stream. ()

0125. DEFINITIONS – FISHING CONTESTS.

- 01. Fishing Contest.** Any organized fishing event that: ()
- a. Has a live-fish weigh-in; or ()
- b. Awards cash or prizes of one thousand dollars (\$1,000) or more based on number, size, or species of fish captured; or ()
- c. Is expected to draw or have more than twenty (20) participants. ()
- 02. Catch-and-Release Contest.** Any fishing contest with specific procedures to keep target fish species alive and healthy and to release all fish caught back into the contest water on the same day. ()
- 03. Harvest Contest.** Any fishing contest that allows participants to harvest fish. ()

013. – 100. (RESERVED)

101. RELEASE OF FISH WHILE FISHING.

Any fish caught ~~in Idaho waters~~ that is unlawful to possess must be immediately released back to the water. (3-31-22)()

102. STURGEON.

No person may remove a sturgeon that is unlawful to possess from the water, ~~and it is unlawful to possess sturgeon.~~ (3-31-22)()

01. Barbed Hook Restrictions. No person may fish for sturgeon with barbed hooks. ()

02. Sinker for Sturgeon. When fishing for sturgeon, a person must use a sliding sinker and lighter test line to attach the weight to the main line (the line attached to the reel). ()

103. (RESERVED)

104. IDENTIFICATION OF SPECIES AND SIZE IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Restrictions. No person may have in the field or in transit any trout, tiger muskie, or bass from which the head or tail has been removed unless: ()

a. The angler is ashore and done fishing for the day; ()

b. The fish is processed or packaged with the skin naturally attached to the flesh; and ()

c. The fish is processed or packaged in a manner that the number of fish harvested can be readily determined and the processed fish is not transported by ~~boat~~ watercraft. (3-31-22)()

02. Transport or Gift. No person may transport for another or accept as a gift any game fish, unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. ~~However, n~~No person may claim ownership of more fish than allowed by the possession limit. (3-31-22)()

105. PURCHASE, BARTER, OR SALE OF FISH.

No person may purchase, barter, or sell the edible flesh of fish, crayfish, or bullfrog harvested from the wild, except as provided in Section 36-501, Idaho Code, and Title 36, Chapter 8, Idaho Code, and these rules promulgated pursuant thereto. (3-31-22)()

106. LIVE FISH – POSSESSION, TRANSPORT, IMPORT, AND RELEASE.

01. Permit. No person may possess, transport, ~~cause to be transported,~~ import, or release any live fish, crayfish, or bullfrog, or viable eggs thereof, without having first obtained a permit from the ~~Director~~ Department or the Department of Agriculture. (3-31-22)()

02. Marking Fish in Possession. No person may mark live fish by any means, including ~~with a tag,~~ by removing fins or injuring ~~with intent to leave a scar,~~ without first obtaining a Scientific Collecting Permit from the Department. (3-31-22)()

03. Import Inspection and Examination Requirements. ~~All live fish imported into or transported within Idaho must be certified free from disease~~ The Department may require a disease-free certification for live fish import or transport, as evidenced by a Certificate of Veterinary Inspection by a licensed veterinarian, (b) CFR Title 50 certification, (c) American Fisheries Society certified fish health inspector's certification, or (d) other certification by ~~an individual designated by the Director of~~ the Department of Agriculture. (3-31-22)()

04. Unpermitted Fish Species Released. Any fish ~~species unpermitted~~ unauthorized for import, possession, transport or release that is released by a person or escapes from ~~an owner or operator shall~~ that person's control must be captured or destroyed by ~~the owner that person,~~ or and may be captured or destroyed by the Department at the ~~owner's~~ person's expense. (3-31-22)()

107. LIVE FISH AND EGGS – EXCEPTIONS.

No permit is required to: ()

01. Fish. Keep fish that can legally be reduced to possession (except for anadromous ~~salmon and steelhead~~ game fish), alive and in possession in a live well, ~~net, or on a stringer~~ while at on the body of water from

which they were taken.

(3-31-22)()

~~02. Same Location. Release fish at the same time and place where captured.~~ (3-31-22)

~~03. Aquarium Fish. Possess ornamental or tropical aquarium fish of varieties commonly accepted for interstate shipment (not to include invasive species).~~ (3-31-22)

~~04. Private Ponds or Commercial Fish Facility. Possess fish from a private pond or commercial fish facility when accompanied by sales receipt and written permission from the ~~director~~ Department, as provided in ~~Chapter 7~~, Title 36, ~~Chapter 7~~, Idaho Code or from the Department of Agriculture as provided in ~~Chapter 46~~, Title 22, ~~Chapter 46~~, Idaho Code.~~ (3-31-22)()

~~05. Transport Between Commercial Fish Facilities. Transport fish between commercial fish facilities licensed under Chapter 7, Title 36 and Chapter 46, Title 22, Idaho Code.~~ (3-31-22)

~~06. Fish Eggs. Possess, sell, purchase or transport nonviable fish eggs used for bait or personal consumption.~~ ()

108. – 199. (RESERVED)

200. FISHING METHODS AND GEAR.

01. General Restrictions. Unless modified by rule (such as ~~the~~ exceptions in the following subsections), order, or proclamation, it is unlawful to: (3-31-22)()

a. Fish in any waters of Idaho with more than one (1) handline or pole with a line attached, unless in possession of a valid two-pole permit. (3-31-22)()

b. Leave an line unattended line. (3-31-22)()

c. Have more than five (5) hooks attached per line. ()

~~d. Use more than five (5) lines while ice fishing.~~ ()

~~de. Fish by archery, spearfishing, snagging, hands, trapping, seining, or netting.~~ ()

~~ef. Use live fish, leeches, frogs, salamanders, waterdogs, or shrimp as bait.~~ ()

~~fg. Land any fish with a gaff hook.~~ ()

~~02h. Molesting Fish. It is unlawful to m~~Molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (3-31-22)()

~~i. Fish from a watercraft with a motor attached in waters listed in proclamation as “no motors.”~~ ()

~~j. Use gas (internal combustion) motors on fishing waters listed in proclamation as “electric motors only,” although it may be attached to the boat.~~ ()

~~03. Hook and Line Exceptions. The holder of a valid two (2) pole permit may use two (2) poles during a general fishing season. A person may use no more than (5) lines while ice fishing.~~ (3-31-22)

~~04. Snagging Archery and Spear Fishing Exceptions. Fishing with t~~The use of snagging, bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of unprotected fish, provided there is an open season for game fish. (3-31-22)()

~~053.~~ **Gaff Hook Exceptions.** ~~It is permitted to use a~~ The use of a gaff hook ~~through a hole cut or broken in the ice is permitted while ice fishing~~ in waters which have no length restrictions or harvest closures for that species, or when landing unprotected fish species taken with archery equipment, ~~provided the angler does not intend to release fish so caught.~~ (3-31-22)()

~~06.~~ **Snagging Exceptions.** ~~Snagging of unprotected fish species is permitted.~~ (3-31-22)

~~074.~~ **Trapping and Seining Exceptions.** It is lawful to take unprotected fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, ~~provided~~ unless there is an open season for game fish, and provided the following conditions are met: (3-31-22)()

a. The seine or net does not exceed ten (10) feet in length or width, and the seine has three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap does not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is lawful to use. ()

b. Nets and seines are not left unattended. ()

c. Traps are checked at least every forty-eight (48) hours. ()

d. All game fish and protected nongame fish incidentally ~~taken~~ captured while trapping or seining are immediately released alive. (3-31-22)()

e. All traps have a tag attached bearing the owner's name and address, ~~or~~ license number, or sportsman identification number. (3-31-22)()

~~085.~~ **Use of Bait Exceptions.** Live crayfish and bullfrog may be used for bait if caught on the body of water being fished. ()

~~096.~~ **Use of Hands Exceptions.** ~~It is permitted to take~~ Bullfrog and crayfish may be taken with the hands. (3-31-22)()

~~10.~~ **Barbed Hook Restrictions.** ~~It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam.~~ (3-31-22)

~~11.~~ **Sinker for Sturgeon.** ~~When fishing for sturgeon, a person must use a sliding sinker and a lighter test line to attach the weight to the main line (the line attached to the reel).~~ (3-31-22)

~~1207.~~ **Fishing Shelters.** Any enclosure or shelter left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address, or sportsman identification number legibly marked on two (2) opposing sides of the enclosure or shelter. (3-31-22)()

201. – 344. (RESERVED)

345. FISHING IN BOUNDARY WATERS.

01. **Bear Lake.** The holder of a valid Idaho or Utah fishing license may fish all of Bear Lake, subject to the rules or regulations of the state in which they are fishing, including any closure. ()

~~02.~~ **Snake River Between Idaho and Oregon or Washington.** ~~The holder of a valid Idaho fishing license may fish the Snake River where it forms the boundary between Idaho and the states of Oregon or Washington, subject to the fish and game laws of Idaho. An Idaho license does not authorize the holder to fish from the shoreline, sloughs, or tributaries on the Oregon or Washington side. An Oregon or Washington license holder has the same rights and restrictions with reference to the Idaho side.~~ (3-31-22)

~~032.~~ **Limit for One License Only.** Any angler who fishes on the Snake River or any other water

forming an Idaho boundary is entitled to have in possession only the limit allowed by one (1) license regardless of the number of licenses ~~he~~ they may possess. (3-31-22)()

346. FISH SALVAGE.

No person may salvage fish from public waters without specific authorization of the ~~Commission, Director, or Regional Supervisor~~ Department. Authorization for salvage may allow holders of valid fishing licenses to harvest fish without regard to usual possession limits and may allow snagging, spearing, archery, dipnet, seines, or with the hands. (3-31-22)()

347. – 399. (RESERVED)

400. ~~STEELHEAD AND ANADROMOUS SALMON~~ GAME FISH LICENSES, TAGS, AND PERMITS.

01. Licenses. Any person fishing for ~~steelhead or~~ anadromous ~~salmon game fish~~, except those expressly exempt, must have in possession a valid fishing license. (3-31-22)()

02. Permits. No person may fish for, or reduce to possession, ~~steelhead or~~ anadromous ~~salmon game fish~~ without a valid ~~steelhead or salmon~~ permit in possession for the targeted species. Permits are only valid for the specified river sections and species, as well as mark types (adipose clipped or unclipped) as set by Commission proclamation. (3-31-22)()

a. Salmon Permit. Allows for fishing, retention, and possession of salmon as authorized by Commission proclamation. ()

b. Steelhead Permit. Allows for fishing, retention, and possession of steelhead as authorized by Commission proclamation. ()

401. – 402. (RESERVED)

403. PERMIT VALIDATION.

For each ~~steelhead or adult~~ anadromous ~~salmon game fish~~ hooked, landed, and reduced to possession, the angler hooking the fish must immediately validate ~~her~~ their permit ~~by notching the permit and entering in ink with~~ the appropriate month, day, and river location code (listed by Commission proclamation). (3-31-22)()

404. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Provisions for Processing and Transporting ~~Steelhead and Anadromous Salmon~~ Game Fish. ~~No person may have in the field or in transit a hatchery produced steelhead or anadromous salmon processed by removing the head and tail unless the following conditions are met~~ All processing and transportation provisions and restrictions from IDAPA 13.01.11.104 are applicable to anadromous game fish. In addition: (3-31-22)()

a. The ~~fish is~~ processed and packaged ~~with the skin naturally attached to the flesh~~ fish must including include a portion with a healed, clipped, adipose fin scar or adipose fin; ~~and~~. (3-31-22)()

b. ~~The fish is packaged in a manner that the number of fish harvested can be readily determined.~~ (3-31-22)

02. ~~Restrictions on Processing and Transporting Steelhead and Anadromous Salmon~~. ~~No person may process steelhead or anadromous salmon until he is ashore and done fishing for the day. No person may transport processed steelhead or anadromous salmon via boat. No jack salmon may be processed while in the field or in transit. Each processed steelhead or anadromous salmon counts towards an angler's possession limit while in the field or in transit.~~ (3-31-22)

b. No jack salmon may be processed while in the field or in transit. ()

c. Each processed anadromous game fish counts towards an angler's possession limit while in the

field or in transit. ()

405. ~~STEELHEAD AND ANADROMOUS SALMON GAME FISH METHODS OF TAKE.~~
In addition to take restrictions for all game fish, the following apply to anadromous game fish: ()

01. ~~Hooks.~~ It is unlawful to use any hook larger than five eighths (5/8) inch, measured from the point of the hook to the shank. Steelhead and a anadromous salmon game fish may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages downstream of Hells Canyon Dam. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead and anadromous salmon may be taken with barbed hooks in the Boise River drainages, and the Snake River between Hells Canyon and Oxbow Dams. (3-31-22)()

02. ~~Snagging.~~ No person may kill or retain in possession any steelhead or anadromous salmon hooked other than in the mouth or jaw. (3-31-22)

03. ~~Legal Catch Retention.~~ Any steelhead or anadromous salmon game fish caught must be released or, provided it is legal to possess, killed immediately after it is landed. (3-31-22)()

04. ~~Cease Fishing.~~ Once an angler has attained his their bag, possession or season limit on those waters with steelhead or anadromous game fish salmon limits, he they must cease fishing for steelhead or anadromous salmon game fish, including catch-and-release fishing. (3-31-22)()

05. ~~Keeping Marked Fish Adipose Fin.~~ Only steelhead or anadromous salmon marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. Anadromous salmon with an intact adipose fin may be retained as authorized by Commission proclamation. Only anadromous game fish with a clipped adipose fin, as evidenced by a healed scar, may be kept during an open season. Retention of unclipped anadromous game fishes may be authorized by Commission proclamation. (3-31-22)()

06. ~~Fish Counted in Limit.~~ Each fish that is hooked, landed, and reduced to possession counts towards the limit of the person hooking the fish. ()

07. ~~Special Limits.~~ No person may fish in waters having special limits while possessing fish of that species in excess of the special limit. (3-31-22)

406. – 407. (RESERVED)

408. STEELHEAD PURCHASE REPORT.

01. ~~Filing Purchase Report.~~ Any person holding a wholesale or retail steelhead trout buyer's license must report all sales and purchases of steelhead on an Idaho Steelhead Purchase Report to the Administration Bureau of the Idaho Department of Fish and Game, Boise, Idaho, form provided by the Department on or before December 31 of each year. (3-31-22)()

02. ~~Inaccurate Reporting.~~ Failure to provide complete and accurate information on the report or failure to file the report on or before December 31 is time are grounds for revocation of the wholesale or retail license. (3-31-22)()

409. – 699599. (RESERVED)

700. FISHING CONTESTS – PERMIT REQUIREMENT AND APPLICATION.

01. ~~Permit Requirement.~~ No person or other entity may conduct or participate in a fishing contest without having first obtained a fishing contest permit from the Department. Events organized wholly for youth under the age of fourteen (14) do not require a fishing contest permit. (3-31-22)()

02. ~~Permit Application.~~ Application for fishing contest permits must be made on using a form prescribed provided by the Department. An application must be submitted at least thirty (30) days prior to a catch-

~~and release contest and ninety (90) days prior to a harvest contest.~~ (3-31-22)()

7601. FISHING CONTESTS PERMIT ISSUANCE.

01. General. The issuance of a fishing permit is at the Department's discretion. Among the factors the Department will consider are: ()

a. ~~Impacts~~ Effects of the contest on fish populations. (3-31-22)()

b. Compatibility of the contest with fish population management and fishery goals. ()

c. Potential conflict with other recreational users or other permitted contests. (3-31-22)()

d. ~~Potential conflict with other permitted contests~~ Previous compliance with submitting fishing contest reports. (3-31-22)()

02. Limit on Contest. The Department will not issue a permit for a harvest contest for wild native trout or sturgeon in rivers or streams. ~~The Director may issue a permit for a catch and release contest for these species if he determines there will be no harm to that fishery resource in the particular water where the contest is to take place:~~ (3-31-22)()

03. Conditions. The Department has discretion to specify conditions in the permit to minimize adverse ~~impacts~~ effects on fish populations, management programs and goals, other recreational users, or other permitted contests, including: (3-31-22)()

a. The time of start and check-in; ()

b. Limitations on the contest area ~~where participants may fish;~~ (3-31-22)()

c. ~~For catch and release contests,~~ Handling protocols and the method and location of release of fish; (3-31-22)()

d. ~~For harvest contests, m~~ More restrictive bag or size limits than would otherwise apply. (3-31-22)()

e. Allowing overland transport of live fish to facilitate fish redistribution within the contest area. ()

f. Requiring mandatory kill of fish species deemed incompatible with water body management objectives. ()

7602. FISHING CONTESTS – REQUIREMENTS.

01. Rules. Any fishing contest participant must comply with seasons, limits, and rules pertaining to the taking of fish and any additional conditions of the fishing contest permit. For special rule waters, the Department may authorize seasons, limits, and rules exemptions. (3-31-22)()

02. Culling. No fishing contest participant may release back to the water (cull) any fish that is not capable of swimming free. ~~A participant in a catch and release contest may have one (1) daily bag limit of the target species in possession while continuing to fish for the contest target species; if the participant catches another target fish, the participant must immediately release the last fish caught or immediately exchange it for another target fish in possession.~~ (3-31-22)()

7603. FISHING CONTEST REPORTS.

Each fishing contest sponsor shall, within thirty (30) days after the last day of a fishing contest, submit a ~~written~~ report to the Fisheries Bureau at the Department's main office ~~on using~~ the form ~~prescribed~~ provided by the Department. (3-31-22)()

~~7604.~~ – ~~9699.~~ (RESERVED)

700. COMMERCIAL FISHING LICENSES, TAGS, AND APPLICATIONS.

01. Commercial Fishing Licenses Requirements. No person shall set, operate, or fish with commercial gear unless they possess a valid commercial fishing license or are assisting in the presence of a licensee. ()

a. Commercial Fishing Species. The holder of a valid commercial fishing license may engage in commercial fishing for Bullfrog, Crayfish, or unprotected species from the Minnow or Sucker families. ()

b. Commercial Fishing Locations. Commercial harvest is allowed only in the Snake River and its main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks, Palisades Reservoir, Lake Lowell, Black Canyon Reservoir, Blackfoot Reservoir, and the Bear River and its main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ()

02. Commercial Fishing License Application. Application for a commercial fishing license may occur using a form provided by the Department. Should the license be approved, or conditionally approved, commercial fishing may occur after licenses and tags are secured. ()

03. Commercial Gear Tags. No person may set, operate, lift, or fish commercial gear unless such gear has attached thereto a valid commercial gear tag from the Department, except that no tag needs to be attached to conventional rod and reel fishing tackle used for commercial fishing. ()

701. COMMERCIAL FISHING AUTHORIZATION ISSUANCE.

01. General. The Department may consider commercial fishing operations not listed in IDAPA 13.01.11.700.01 by special authorization. The issuance of a special authorization is at the Department's discretion. Such authorizations will be valid for a period not to exceed one (1) year. Among the factors the department will consider are: ()

a. Impacts of commercial fishing on fish or wildlife populations. ()

b. Post-release mortality of non-target species. ()

c. Compatibility of commercial fishing with fish population management and fishery goals. ()

d. Potential conflict with other recreational users or commercial fishing activities. ()

e. Transmission of invasive species. ()

f. Compliance with reporting requirements. ()

02. Commercial Fishing Conditions. The Department has discretion to specify conditions to minimize adverse effects on fish or wildlife populations, management programs and goals, other recreational users, or other licensees, including: ()

a. Limitations of fishing seasons and times. ()

b. Limitations on fishing areas. ()

c. Limitations on gear type, specifications, and quantity. ()

d. Handling protocols, as well as methods and locations for release of non-target fish. ()

e. Maximum allowable catch. ()

03. Revocation of Commercial Licenses and Special Authorizations. The Department is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or authorization for violation of Title 36, Idaho Code by the licensee or persons acting under the licensee's direction and control. ()

702. – 749. (RESERVED)

750. RELEASE OF NON-TARGET FISH AND CRUSTACEA.

Any person capturing with commercial gear any species of fish or crustacea not a commercial species or listed on a special permit shall immediately release it unharmed back to the water. ()

01. Female Crayfish. Any person capturing any female crayfish carrying eggs or young shall release it unharmed back to the water at the time the crayfish are sorted. ()

751. POSSESSION AND TRANSPORTATION OF LIVE FISH OR CRUSTACEA.

01. Live Fish. No person may transport live fish without Department authorization. ()

02. Live Crustacea. Commercial fishers may possess and transport live commercial species of crustacea between the water areas where harvested and the point of sale or holding. Live crustacea may be held only in the waters where harvested, in ponds for which a private pond permit listing crustacea has been issued or in licensed commercial facilities. ()

752. – 779. (RESERVED)

780. SIZE LIMITS.

01. Fish. Commercial fish species of any size may be taken commercially. ()

02. Crayfish. ()

a. Only crayfish three and five-eighths (3 5/8) inches or greater in length from the tip of the nose to the tip of the tail, measured in a straight line ventral side up, may be taken commercially. ()

b. Crayfish shall be sorted, and any undersize crayfish returned to the water at the place of capture immediately following the emptying of any single trap or a trap line. However, an allowable sorting error percentage of undersized crayfish, not to exceed five percent (5%), is allowed in any load or lot. The percentage of undersized crayfish will be the mean of combined counts of samples measured and counted from various portions of the load or lot. Samples will be taken in containers of not less than one (1) gallon size approximately full of crayfish, with at least three (3) such samples taken from any load or lot. ()

781. – 799. (RESERVED)

800. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.

No person may commercially harvest fish or crustacea except as follows: ()

01. Seine Nets. Seine net mesh size may not exceed one and one half (1 1/2) inch bar measurement and under constant attendance by the licensee or someone working under the supervision of the licensee; or if being used to hold fish, clearly marked with buoys that are at least twelve (12) inches in diameter. ()

02. Traps. With a trap not exceeding three (3) feet in any dimension, and provided all traps are lifted and emptied of catch at least once every ninety-six (96) hours, except during periods of weather that pose a threat to human life, health, or safety. ()

03. By Hand. For crayfish only. ()

801. UNTAGGED GEAR.

Untagged gear, or unattended seine nets, or traps left unattended more than ninety-six (96) hours are considered unlawful or abandoned and may be confiscated by Department personnel. ()

802. – 859. (RESERVED)

860. COMMERCIAL SEASONS.

01. Commercial Fish. Year-round. ()

02. Commercial Crustacea. April 1 through October 31 of each year. ()

861. – 879. (RESERVED)

880. COMMERCIAL FISHING RESTRICTIONS.

01. Operation Limitations. No commercial gear may be set, operated, or lifted within one hundred (100) yards of any public boat ramp or dock. ()

02. Storage Limitation. No commercial gear, watercraft, or other equipment or materials used in conjunction with a commercial fishing operation may be stored or left unattended at any public fishing access area in any manner that restricts angling or angler access. ()

881. – 899. (RESERVED)

900. COMMERCIAL FISHING INSPECTIONS AND REPORTING REQUIREMENTS.

01. Inspections. Department personnel may inspect: ()

a. Commercial gear at any time the gear is being used. ()

b. Catches and catch records at any time. ()

02. Reporting Requirements. All licensees shall submit a monthly report on a form prescribed by the Department, with all requested information including daily landings and effort, such that it is received by the Department not later than the fifteenth day of the month following the fishing activities. ()

901. – 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.12 – RULES GOVERNING COMMERCIAL FISHING

DOCKET NO. 13-0112-2301 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104 and 36-804, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

Any hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every five years. The rule chapter under consideration establishes the criteria for commercial fishing in Idaho. Consistent with the Governor’s [Zero-Based Regulation Executive Order](#), the agency has reorganized rule sections in this chapter and revised current rule language to improve clarity and reduce duplication.

IDFG has evaluated the potential to consolidate IDAPA 13.01.12, “Rules Governing Commercial Fishing,” into IDAPA 13.01.11, “Rules Governing Fish,” such that IDAPA 13.01.12 may be repealed, as proposed concurrently in Docket No. [13-0111-2301](#).

This proposed rulemaking includes changes to integrate current IDFG restrictions found in both chapters, under the similar topic, into a single rule chapter under IDFG’s authority to regulate fishing and commercial fishing. The proposed rule consolidates definitions into one location and adds sections specific to commercial fishing to the “Rules Governing Fish” chapter.

FEE SUMMARY: There is no fee associated with this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 7, 2023 Idaho Administrative Bulletin, [Vol. 23-4, page 21](#) under Docket No. 13-0112-2301. The Department received no feedback on this rulemaking.

INCORPORATION BY REFERENCE: This rulemaking contains no incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Joe Kozfkay, State Fisheries Manager, 208-334-3700

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 29th day of August, 2023.

Amber Worthington Deputy Director
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IDAPA 13.01.12 IS BEING REPEALED IN ITS ENTIRETY